

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

DEWAYNE WHITE ADAMS	§	
	§	
Petitioner,	§	
	§	
v.	§	CIVIL ACTION NO.
	§	3:08-CV-320-P
NATHANIEL QUARTERMAN, Director	§	
Texas Department of Criminal	§	
Justice, Institutional Division,	§	
	§	
Respondent.	§	

**ORDER ACCEPTING FINDINGS AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE**

This is a petition for writ of habeas corpus filed by a state inmate pursuant to 28 U.S.C. § 2254. The magistrate judge issued her Findings and Recommendation on April 9, 2008, and petitioner filed his objections on April 24, 2008.¹

The magistrate judge determined that petitioner's federal habeas petition was untimely filed and recommended dismissal. Petitioner objects to this finding because the magistrate judge's calculations "do not take into account the prison mailing system and other factors." (Pet. Resp. at 2). Petitioner states that although his petition for discretionary review ("PDR") was refused on November 23, 2005, he did not receive the notice until November 29, 2005. Petitioner notes other delays in his receipt of notices from the courts. However, none of the delays noted by petitioner affect the calculations regarding the untimeliness of his federal habeas petition. Petitioner received notice that his PDR was denied on November 29, 2005, yet he


¹ Pursuant to the provisions of Federal Rule of Civil Procedure 6, petitioner's objections were timely filed.

waited until May 14, 2007 to file his state habeas petition. By this time, the one year federal limitations period of 28 U.S.C. § 2244(d)(1) had expired. Thus, the filing of petitioner's state habeas petition did not revive the already expired limitations period.

Further, as noted by the magistrate judge, petitioner has made no showing warranting equitable tolling. Hence, the magistrate judge properly concluded that petitioner's federal habeas petition was untimely and should be dismissed.

After reviewing all relevant matters of record, including petitioner's objections, the court is of the opinion that the Findings and Conclusions of the magistrate judge are correct and they are adopted as the Findings and Conclusions of this court.

Signed this 5th day of May 2008.



JORGE A. SOLIS
UNITED STATES DISTRICT JUDGE